



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

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March 29, 1955

Honorable Ben A. Glusing, Chairman
Committee on State Affairs,
54th Legislature,
Austin, Texas.

Letter Opinion No. MS-189

Re: Constitutionality of
House Bill 211 of the
54th Legislature.

Dear Mr. Glusing:

You have requested an opinion of this office concerning the constitutionality of House Bill 211 of the 54th Legislature which authorizes the payment of a pension in the sum of \$125.00 per month for life and thereafter the sum of \$62.50 per month to the surviving widow to retired Texas Rangers who are ineligible, under the State Employees Retirement System.

Since this Act applies to persons who are ineligible to participate under the State Employees Retirement System, the provisions of Section 62 of Article XVI of the Constitution of Texas cannot apply to this Act nor authorize its provisions.

Section 51 of Article III of the Constitution of Texas prohibits the Legislature from making any grant or authorizing the making of any grant of public monies to any individual, with certain exceptions, not applicable here. Since the pension authorized under House Bill 211 is applicable only to persons already retired, the appropriation cannot be construed as authorizing compensation for services to be rendered.

We are, therefore, compelled to hold that House Bill 211 constitutes a grant of public money to an individual prohibited by the provisions of Section 51 of Article III of the Constitution of Texas. The payment of such a pension can only be accomplished by constitutional amendment since it applies only to persons who are ineligible to participate under the State Employees Retirement System.

House Joint Resolution 39 has been introduced which is a proposed constitutional amendment authorizing such a pension. Therefore, the constitutional question can be eliminated by adding a new Section to House Bill 211, which would provide in substance "that this Act shall become effective and operative only upon condition that House Joint Resolution 39 of the 54th Legislature shall be adopted by the qualified electors of this State; and in that event, the effective date of this Act shall be the date on which the State Canvassing Board declares that such constitutional amendment is adopted; otherwise, this Act shall be of no force and effect". If such Section were added to House Bill 211, it would then constitute valid enabling legislation pursuant to the constitutional amendment.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By *John Reeves*
John Reeves
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